

61

T H E
T R I A L
O F

£

Mr. *George Timewell*,

Late SECRETARY to Commodore *Mitchell*,

W H O

Was tried on board the *Katherine* Yacht
at *Deptford*, on *Wednesday* the 20th Day
of *July*, 1748,

For the MURDER of

Captain *Thomas Gregory*,

Commander of his Majesty's Ship *Folkstone*;

W H O

Was killed in a Duel, in the Province of *Zealand*
in *Holland*, on *Monday* the 25th Day of
January last.

Taken in Court by

R A L P H C A R T E R,

Then Clerk to the Judge-Advocate.

L O N D O N:

Printed for R. GRIFFITHS, at the *Dunciad* in *Ludgate-street*; and to be had at all the Pamphlet Shops
in *London* and *Westminster*. 1748.

(Price One Shilling.)

THE
T R I A L
OF
Mr. George T. Russell

and the State of Tennessee
Was tried on the 11th day of
November 1920 at the
Court House in
For the State of Tennessee
Captain William Gregory

Commander
11 NOV 1920

Was killed in a duel on the 11th day of
November 1920 at the Court House in
Tennessee

State of Tennessee
Ralph W. Carter
Attorney General to the State of Tennessee

LOUISIANA
In the State of Louisiana
In the Parish of Orleans
In the City of New Orleans
(First Session)

THE
T R I A L
 OF
Mr. GEORGE TIMEWELL,
 ON
 Board his Majesty's Yacht *Katherine*,
 at *Deptford*.

ABOUT Nine o'Clock on *Wednesday* Morning, the 20th of *July*, 1748, a Court-Martial assembled, by Order of the Right Honourable the Lords Commissioners, for executing the Office of Lord High Admiral of *Great Britain, Ireland, &c.* to try Mr. *George Timewell*, late Secretary to Commodore *Mitchell*, for the Murder of Captain *Thomas Gregory*, Commander of his Majesty's Ship *Folkstone*, in the Province of *Zealand*, in *Holland*, on the 25th Day of *January* last, consisting of the following Members.

TAMT

B

Arthur

The TRIAL of

Arthur Scott, Esq; Commander
in Chief of his Majesty's Ships
and Vessels in the Rivers } President.
Thames and Medway, and at
the Buoy of the Nore,

Capt. Douglas,
Keller,

Capt. Stanhope,
Allen.

Who being seated according to their Seniority, the Prisoner was ordered to be brought into Court, by the Marshal of the Admiralty.

Then the President directed his Commission, appointing him Commander in Chief, &c. to be read by the Judge-Advocate, which was read accordingly.

And his several Warrants for assembling Courts-Martial, and for holding this particular Court-Martial, were also read.

Then the Charge against Mr. *Timewell* was read.

Then the several Members of the Court were sworn by the Judge-Advocate, and afterwards the Judge-Advocate was sworn by the President.

The Court proceeded then to call the Witnesses in Support of the Charge, and first

Lieutenant *Meldrum*, late first Lieutenant of the *Folkstone*, was called in and sworn.

But the Prisoner observing several of the other Witnesses in support of the Charge in Court, he objected thereto, and they were ordered to withdraw till call'd for. Then the Court directed the Witness, Mr. *Meldrum*, to declare what he knew concerning the Death of Captain *Gregory*, and the Circumstances attending the same, who upon his Oath said,

THAT

THAT at the time of the first Quarrel between Captain Gregory and Mr. Timewell, (which was on *Christmas* Day last) he did not happen to be upon the Quarter-deck; nor did he see the Engagement between them on the 25th of *January* last, the Day Captain Gregory was killed, but that he saw him after he was killed. That he had a Wound which run thro' the Upper Part of the Left Shoulder, and went in horizontally. (*Here the Witness being asked, whether Captain Gregory was Left Handed, he said, he always used his Knife with the Right Hand, and believed he was not Left Handed.*)—That Captain Gregory's Sword was broke in two Pieces, and seem'd as if it had been stuck into the Ground and broke. That it lay at a Distance from him, with the Hilt towards his Head: And being asked whether the Sword was Hacked, he said, he believed there might be a Notch or two in it: That he saw no other Wound but that which run through his Left Arm: That the Wound was prob'd, and he saw the Surgeon put the Probe in; and that the Reason of the Surgeon's going on Shore was, because the Commodore having sent for the Witness, and told him, he was afraid something had happened between Captain Gregory and Mr. Timewell, and desired him to go on Shore: He, (the Witness) asked the Commodore, if the Surgeon might not go with him; the Commodore said, by all Means; and the Witness, thereupon, desired the Surgeon to go with him. That when the Commodore sent for him, it was upon Captain *Hudson's* coming on board: That when he went on Shore, and saw Captain Gregory dead, he saw no other Sword but the broken Sword: That he was never present at any Misunderstanding, and never saw any Quarrel between the deceas'd and the Prisoner; but had

heard there had been a Quarrel: That Mr. *Lisle*, the Third Lieutenant of the *Folkstone*, had told him they had quarrell'd; and that the Captain had shoved Mr. *Timewell* off the Quarter-deck; and that he had heard the Prisoner say, that he thought Captain *Gregory* had used him very ill: That when the Witness went on Shore, there was a Boat waiting for Mr. *Timewell*: That the Captain had ordered that he would be called up at Five in the Morning, for that he wanted to write Letters: That he knew of no Orders from the Commodore, that the deceas'd and the Prisoner should not be both on Shore together; but believ'd they sometimes lay together on Shore, but could not be positive of that: (here the Prisoner said, I beg Leave to observe, that I was on Shore that Night with the Commodore's Liberty, and to be on Board at Eight in the Morning, as I often had Leave to do)—*Witness*.—That he had heard no more on Shore, but only, that the Secretary had killed the Captain, and was gone away: That it was two of the Boat's-crew, who carryed Captain *Gregory* on Shore in the Morning, that told him so: That he had heard the Prisoner say, that he had received some ill Usage from Captain *Gregory*, but that he would take no Notice of it, because he had given his Word and Honour to the Commodore that he would take no further Notice of it.—Upon the Witness being cross-examin'd by the Prisoner, he said, that he believed it might be a Month before the Captain was killed; that the Quarrel happened which he heard of between the Deceas'd and the Prisoner, upon the Quarter-deck: That he did not remember that Captain *Gregory* lay out of the Ship on the *Wednesday* Night preceding the Day he was killed: That he believed the Prisoner had told him, that Captain *Gregory* had

had been on Shore, but what it was about, he could not say: That he had heard some Talk about a Quarrel between them at *Middleburgh*, on *Thursday* preceding, the Day the Deceased was killed; but what the Quarrel was, he did not know: That he remembred, the Prisoner told him, that Captain *Gregory* had told him (the Prisoner) that he had been to meet him on Shore, and that the Prisoner made Answer to Capt. *Gregory*, "That he was very much surprized at it;" but did not remember any thing further, nor the Reason why he was surprized at it. That he does remember that the Prisoner at some Times did say, "That he was surprized that Captain *Gregory* should go on Shore to meet him, when they had both agreed to take no Notice of what had passed between them, and had given their Word and Honour to the Commodore to say no more about it;" and perfectly well remembers to have heard the Prisoner speak those Words more than once. (*Being ask'd by the Court what sort of weather it was the Morning Captain Gregory was killed,*) he said, It was a pretty fair Morning, but something cloudy: That where he found Captain *Gregory* dead, it was a low and marshy Ground: That it was on *Monday* Morning, and believed the 25th of *January*: That he went on Shore about Nine in the Morning, and then found him dead; (*being again examined by the Prisoner*) he said, That Captain *Gregory* on the *Sunday* Night preceding his Death, bid him order one of the Mates to awake him at Five o'Clock next Morning: That in regard to Mr. *Timewell's* Character, he had known him for some Time, and that he always behaved well: That he never knew any Quarrel or Disturbance made by him with any body; and that he always agreed well with him, the Witness; That he knew him first in the Year

1743.—With regard to Captain Gregory's Temper, he said, That he never saw any Severity from him, That he himself was used well enough by him, and that he (the Witness) used sometimes to complain that the Captain did not use Severity enough.

Then the Witness withdrew.

Lieutenant Richards, Second Lieutenant of the *Folkstone*, was called in and Sworn.

Who being also directed to declare what he knew touching the Death of Captain Gregory, he looked into a Paper Writing which he had in his Hand, which he said, was a Memorandum of what he had to say, but an Objection being made by the Prisoner to his making use of that Memorandum in giving his Evidence, he was ordered by the Court to put it up, and then he said:

THAT he heard the Prisoner declare, "That he would never forgive the deceas'd, and that if it was Seven Years hence, he might forgive him, but he'd never forget him, and if he was to meet him in a Coffee-house, he would have Satisfaction," or Words to that effect; That he heard this, as they were going up the Bank together to *Middleburgh*: That it was in the latter End of *December* or Beginning of *January* last; and that the Prisoner said, That if he did not cane him or kill him, he would not be positive whether it was the Word cane or kill (but to the best of his Remembrance, it was the latter) That at the speaking those Words, Mr. *Timewell* made a full Stop, and lifted up his Eyes, and then said, it did not signify talking; he had promised to the Commodore, that he would not meddle with him, but

if

if he did not, and then lifting up his Eyes again, he made another full stop, and said, it did not signify at all ; Then the Prisoner talk'd to Captain *Middleton* who was in Company with them about Courts-Martial, which Discourse he did not observe ; That this was after the first Quarrel, and that he did not know any thing about the rest ; That he saw Captain *Gregory* speak to the Prisoner upon the Quarter-Deck, but what it was about he could not tell ; That after he had heard the above mentioned Words from the Prisoner, the Prisoner and the deceas'd did several Times eat and drink together : That before this happened, he never observed any Difference between them, or that the Captain ever treated the Prisoner with Severity : That he had heard that the Commodore had interposed in the Quarrel between the deceas'd and the Prisoner, and made it up, but that he was no Witness to it, he had it only by Hearsay : That he had heard there had been a Difference between them : That he saw Capt. *Gregory* walk aft upon the Quarter-Deck, which he believed to be on *Christmas Day*, in an Hurry, but that he did not hear him say any thing, or mention any Difference between him and Mr. *Timewell*.—Upon the Prisoner's cross examining him, he said, That Captain *Middleton* was present at the above Conversation, but could not say, who introduced this Discourse ; that they were talking indifferently ; that there was Room upon the Bank, at the Time the above Discourse happened for more than two to walk a-breast, if they had taken Arm in Arm ; That the Paper-Writing which he looked into when he first came into Court, was his own Hand-Writing—With regard to Captain *Gregory's* general Character on board the *Folkstone*, as to his Severity or Temper, and how he went thro' his Duty under his Directions ; he said, he did not know much

1743.—With regard to Captain Gregory's Temper, he said, That he never saw any Severity from him, That he himself was used well enough by him, and that he (the Witness) used sometimes to complain that the Captain did not use Severity enough.

Then the Witness withdrew.

Lieutenant Richards, Second Lieutenant of the *Folkstone*, was called in and Sworn.

Who being also directed to declare what he knew touching the Death of Captain Gregory, he looked into a Paper Writing which he had in his Hand, which he said, was a Memorandum of what he had to say, but an Objection being made by the Prisoner to his making use of that Memorandum in giving his Evidence, he was ordered by the Court to put it up, and then he said:

THAT he heard the Prisoner declare, "That he would never forgive the deceas'd, and that if it was Seven Years hence, he might forgive him, but he'd never forget him, and if he was to meet him in a Coffee-house, he would have Satisfaction," or Words to that effect; That he heard this, as they were going up the Bank together to *Middleburgh*: That it was in the latter End of *December* or Beginning of *January* last; and that the Prisoner said, That if he did not cane him or kill him, he would not be positive whether it was the Word cane or kill (but to the best of his Remembrance, it was the latter) That at the speaking those Words, Mr. *Timewell* made a full Stop, and lifted up his Eyes, and then said, it did not signify talking; he had promised to the Commodore, that he would not meddle with him, but
if

if he did not, and then lifting up his Eyes again, he made another full stop, and said, it did not signify at all ; Then the Prisoner talk'd to Captain *Middleton* who was in Company with them about Courts-Martial, which Discourse he did not observe ; That this was after the first Quarrel, and that he did not know any thing about the rest ; That he saw Captain *Gregory* speak to the Prisoner upon the Quarter-Deck, but what it was about he could not tell ; That after he had heard the above mentioned Words from the Prisoner, the Prisoner and the deceased did several Times eat and drink together : That before this happened, he never observed any Difference between them, or that the Captain ever treated the Prisoner with Severity : That he had heard that the Commodore had interposed in the Quarrel between the deceased and the Prisoner, and made it up, but that he was no Witness to it, he had it only by Hearsay : That he had heard there had been a Difference between them : That he saw Capt. *Gregory* walk aft upon the Quarter-Deck, which he believed to be on *Christmas Day*, in an Hurry, but that he did not hear him say any thing, or mention any Difference between him and Mr. *Timewell*.—Upon the Prisoner's cross examining him, he said, That Captain *Middleton* was present at the above Conversation, but could not say, who introduced this Discourse ; that they were talking indifferently ; that there was Room upon the Bank, at the Time the above Discourse happened for more than two to walk a-breast, if they had taken Arm in Arm ; That the Paper-Writing which he looked into when he first came into Court, was his own Hand-Writing—With regard to Captain *Gregory's* general Character on board the *Folkstone*, as to his Severity or Temper, and how he went thro' his Duty under his Directions ; he said, he did not know much

much, but that little trifling Things might happen now and then ; and touching the Prisoner's Behaviour, he said, he had not seen any thing in general by him of Disrespect to his Captain.

Then he withdrew.

Lieutenant *Lisse*, third Lieutenant of the *Folkstone*, was called in and sworn.

And being desired to declare what he knew relating to Captain Gregory's Death, and the Quarrel between him and the Prisoner, he said,

THAT he was Officer of the Watch at the Time the first Dispute happened between Captain *Gregory* and the Prisoner ; Captain *Gregory* ordered a Signal to be made for all Lieutenants, and some of the Officers came on Board accordingly, and he carry'd one of them to Captain *Gregory* ; Captain *Gregory* then asked the Prisoner if the Orders relating to the Victuallers were wrote out, to which he answered that he knew nothing of any Orders, for that the Commodore had given him no Directions about them ; Captain *Gregory* said to him, Sir, that is not an Answer, I desire you will go and write them out immediately : That Mr. *Timewell* answered, Sir, I have told you, that I don't know any thing about any Orders, the Commodore has told me nothing of them, and I don't know what to write ; Captain *Gregory* then said, Sir, I imagine my Orders are sufficient, and I desire you will go and do them directly ; Mr. *Timewell* then said, Captain *Gregory*, I don't imagine that your Business and mine interfere with each other, if you please to mind yours, I will mind mine ; for as I have told

told you already, I dont know what to write, unless the Commodore gives me Directions; upon that, Captain *Gregory* seemed to be very much affronted, and desired the Prisoner to go off the Quarter-Deck; so as Mr. *Timewell* was walking down, Captain *Gregory* took him by the Arm, and gave him a shove, not thinking, (as the Witness supposed) that he went fast enough; Mr. *Timewell* told him, that he did not use him like a Gentleman, to shove him off the Quarter-Deck in that publick manner; so while Mr. *Timewell* was talking, Captain *Gregory* gave him (the Witness) Orders to turn him off the Quarter-Deck immediately, and that then he spoke to *Timewell* to go down; upon which the Prisoner answered, Mr. *Lisle*, I am going down immediately, and then turned to Captain *Gregory* and said, I hope, Sir, you'll please to remember, that this is not using me like a Gentleman: and he then went down immediately, and that this was all he remembered upon the Quarter-Deck: That he did not remember any Dispute or Difference between the Deceased and the Prisoner before this Dispute happened, and believed this Dispute was about a Month before the Death of Captain *Gregory*: That what the Witness set forth, he declared, were the express Words, and all the Words as near as he could recollect, and that after this had passed, he did not hear any Thing more from Captain *Gregory*: That he heard of the Deceased and Prisoner being called before the Commodore upon Account of this Quarrel, and believed he heard that the Difference was made up by the Commodore, but did not remember what passed thereupon: That he did not observe, that Captain *Gregory* spoke to Mr. *Timewell* first of all, as out of Temper, hastily, or with any Moroseness,

and he thought that Mr. *Timewell* answered in a very genteel Way, and that he spoke with good Manners when he said he could not do it: That in the Morning of the Day Captain *Gregory* was killed, he told him he was going ashore, but he did not see him there: That he had no Weapon about him that he saw; he had no Sword on, but that he usually put his Sword on when he went ashore: That he had a great Coat on, and the Witnesses found afterwards, that the Coxswain had put his Sword into the Boat: That when the Captain went out of the Ship he seemed to be troubled: That he went out of the Ship about 7 o'Clock: That he gave Orders to be called at 5: That he believed he left Orders with the Mate of the Ship to be called about 5, and went out of the Ship about 7: That he saw him about 6, and that it was not fair Day, Light when he went out of the Ship: That he did not know how the Tide served at that Time, or whether that required him to go so early: That he heard the Coxswain say, that the Boat landed about half Way up to *Middleburgh*, and he said that he might go up let the Tide have been how it would: That he heard of the Captain's Death about 9 or 10 o'Clock: That it was from the Ship to the *Double-Heads* about a Mile and an half, or two Miles: That the Boat when she put off went a-Stern, and that Captain *Gregory* said, he intended to call upon Captain *Hanbury* on Board the *Salamander* Fire-ship, but believed he did not: That he was told by the Commodore upon Captain *Gregory's* being killed, that Captain *Gregory* had gone out of the Ship once before pretty early in the Morning: That he believed the Commodore apprehended it was upon Account of the Differences between him and Mr. *Timewell*, and that
therefore

therefore he desired he would not go out of the Ship any more without speaking to him, but that Morning he did go out of the Ship without saying any thing to him: That he recollected, the Commodore said, that Captain Gregory went out of the Ship two or three Mornings before, and that he thought Mr. Timewell was out of the Ship at that Time: That he did not know he ever saw the Deceased and the Prisoner on Shore together since the Quarrel, but he thought he had heard that they had been in Company together: That he thought there was a Coolness between them after the Quarrel on Board, but never observed the Prisoner either before or after to shew any Disrespect to Captain Gregory: That he never heard any Body particularly mention any other Quarrel between the Deceased and Prisoner, but that he heard a Rumour of a Quarrel at Middleburgh, but did not observe any Behaviour from the Prisoner, that was any Ways disrespectful. (*Being cross examined by the Prisoner*) he said, that Captain Gregory shoved the Prisoner more than once: That he took him by the Arm, and shoved him for some Time in a very great Passion: That the Prisoner did not refuse going off, but turned round to speak when the Captain came and shoved him: That on the Morning of Captain Gregory's going on Shore, it was very foggy, a drizly Morning, for he remember'd they could not see far from the Ship: That in Regard to Mr. Timewell's Behaviour in general, it was his Opinion, he had said nothing but what any Officer might say: That he always thought him a very good natur'd Man, and never heard any Body speak any Thing amiss of him: That, in respect to Captain Gregory's Character, he thought him a good Sort of a Man:

That in Things that belonged to the Service, he generally commanded as a Gentleman should, but that he had sometimes known that he did otherwise.

Then he withdrew.

Mr. Lang, late Master of the *Folkstone*, was called in and sworn.

And being ordered to declare what he knew in Relation to the Death of Captain Gregory, and the Charge against the Prisoner, he said:

THAT he knew nothing with regard to the Circumstances or Occasion of Captain Gregory's Death: That he knew both Captain Gregory and Mr. Timewell: That Mr. Timewell was the Commodore's Secretary: That he had seen the Deceased and Prisoner together, and heard them talk in a friendly manner, and that he never saw any thing otherwise between them, but that he had heard the People talk of a Quarrel between them, but of his own Knowledge he knew nothing at all: That he had heard from the Master of the *Terror-Bomb*, that Captain Gregory ordered the Prisoner to draw out Orders, and that the Prisoner said, he had received none from the Commodore, and would write no Orders: That he heard say, that Mr. Timewell had said, that he would never forget Captain Gregory, nor ever forgive him.

The Court thinking this Man's Evidence imperfect, and very insufficient, being only upon hearsay, ordered him to withdraw.

Cap:

Captain *Middleton*, late Commander of the *Shark Sloop*, was called in and sworn.

And being directed to acquaint the Court what he knew with regard to Captain Gregory's Death and the Charge against the Prisoner, he said:

THAT he knew nothing of the Quarrel between the Deceased and the Prisoner, Mr. *Timewell*: That Lieutenant *Richards* and he going together up the Bank to *Middleburgh*, about the Beginning of *January*, Mr. *Timewell*, by Way of Discourse told him, that a Signal being made by Captain *Gregory* for the Lieutenants to come on Board the *Folkstone*, some of the Officers accordingly came, and the Captain demanded from the Prisoner their Orders; to which the Prisoner answered, that he had no such Orders from the Commodore, but that so soon as he had, he (Captain *Gregory*) should have them: That Captain *Gregory* thereupon flew in a Passion (as the Prisoner informed him) and was very angry with the Prisoner, and told the Prisoner that he was mistaken in his Man, or Words to that Purpose, and used him with very hard Words, and obliged him to quit the Quarter-Deck, by either shoving or striking him: That he understood the Commodore had been the means of pacifying them both: That Mr. *Timewell* asked him what might have been the consequence, if he should have been obliged to have fought Captain *Gregory*, and that he told him his Opinion was, that he had done much better in making the Matter up, and that Mr. *Timewell* declared at the same time that he would take no further Notice of it, as Commodore *Mitchel* had desired: That Mr. *Richards* the 2d Lieutenant of the *Folkstone* was
with

with them all the Time, and corroborated what Mr. *Timewell* had said, and farther added, that Captain *Gregory* had used not only Mr. *Timewell*, but all his Officers very ill: That he (the Witness) answered, that he thought Captain *Gregory* was a good-natur'd Gentleman; Mr. *Richards* said, you may judge of his good Nature from one Instance; our first Lieutenant is a very deserving Officer, and there happened to be a Vacancy not long ago for a Command, which he might have had, if Captain *Gregory* had but spoke in his Favour to Commodore *Mitchel*, but he declined it: That there had been a Washerwoman who had washed for the Witness all the Time he was at *Campvere*, whom he recommended to the Officers of his Acquaintance, as making up Linnen cheaper and better than others did, and that he mentioned her to Captain *Gregory* as a fit Person to be employed by him for that Purpose: That Captain *Gregory* then asked him, if Mr. *Timewell*'s Linnen went along with the Lieutenant's, and whether that Washer-woman had made them up also, he told him they did, then said Captain *Gregory*, my Linnen shall never mix with his, or any such Scoundrel's: That two or three Days before he left *Flushing*, (sometime in *January*) he saw some of the Officers, and said, he was surprized that such a Difference should subsist between Captain *Gregory* and Mr. *Timewell*; several of the Officers spoke very disrespectfully of Captain *Gregory*, Mr. *Richards* in particular: That he was a long Time at *Campvere*, and did never see Mr. *Timewell* and Captain *Gregory* in Company after the Occasion of the Quarrel: That when he, the Prisoner, and Mr. *Richards* were together going to *Middleburgh*

burgh as before-mentioned, he did not hear Mr. *Timewell* use any threatening Expressions against the Captain, yet he had a Part in their Discourse all the Time together, and that he and *Timewell* parted with Mr. *Richards* in the Town of *Middleburgh*, and believed no Discourse could have passed in that Time between Mr. *Timewell* and Mr. *Richards* without his hearing it: That he and Mr. *Timewell* kept on together when Mr. *Richards* parted them: That Mr. *Timewell* dropt no Expressions relating to the obtaining Satisfaction from Captain *Gregory*, but said, he would think no more about it: That he never heard him say he would have Satisfaction if it were seven Years hence, or Words to that Purpose, but quite the contrary, and that he was sure of it, and that such Things could not have been said without his hearing it: That he heard no manner of Discourse about Courts-Martial; and that in regard to what Mr. *Timewell* said about the Expressions Captain *Gregory* made use of, when he gave him hard Words, he (Mr. *Timewell*) only spoke in general; That when Mr. *Timewell* asked his Opinion with regard to the Consequence of fighting Captain *Gregory*, he said, his Expression was not if he should have fought, but if he should have been obliged to have fought Captain *Gregory*, and that he understood the Expression to mean, if Captain *Gregory* should have forced him to fight: That he had no Opportunity of observing the Behaviour of Mr. *Timewell* to Captain *Gregory* afterwards: That he left *Flushing* the 19th of *January*: That he made a Memorandum upon hearing of the Death of Captain *Gregory*, and that what he had now said was to the same Purpose as in his Memorandum; with regard

regard to the Prisoner's Character, *he said*, that it was very good, he never heard any thing to the contrary, nor any ill of him.

Then he withdrew.

Lieutenant Pattison of the *Artillery*, was called in and sworn.

And being ordered to declare what he knew of the Death of Captain Gregory, and the Charge against the Prisoner, he said,

THAT on the *Thursday* before he heard of the Death of *Captain Gregory*, he was in an House with him on Shore; that he saw *Captain Gregory* go out and seemed to be somewhat confused, and asked him to take a Walk with him to the *Doubleheads*; that he told him he was engaged, and that he staid in a Room till all the Gentlemen went out; that he was left alone in the Room, and sitting by the Fire-side, *Mr. Timewell* came in, and said he had been extremely ill-used by *Captain Gregory*, and said, he had challenged that Scoundrel *Gregory*, but that he would not see him out; *Mr. Timewell* went out again, and he (the Witness) afterwards went out to take a Walk, and met *Mr. Timewell* and *Captain Hudson* together; that he joined Company with them and went to the *Ship Tavern*; that they went into a publick Room, where there were some Masters of Merchant-Men and Masters of Colliers who sat on one Side of the Fire, and *Mr. Timewell*, *Captain Hudson*, and himself sat on the other pretty close together; that he (*Mr. Timewell*) was whispering to *Captain Hudson* about the Quarrel, and that *Mr. Timewell* spoke

to

to the same Purpose as he (the Witness) related before; that Captain *Hudson* seemed to reprove Mr. *Timewell* and was angry with him for mentioning of it; that he (the Witness) went back to the House where he dined, and said to the Man of the House, his Wife, and Gentlemen there, that there was going to be a Duel; that it was told in publick Company, and which they might have heard, if they had listened; that as Captain *Hudson* was a Captain of a Man of War, and he only an Officer in the *Artillery*, he thought it was his Duty to acquaint Commodore *Mitchell*, in order to prevent it, otherwise he (the Witness) would do it himself; that this was all he knew, which he told the Commodore, after the Thing had happened. *Being asked by the Court*, whether he heard Mr. *Timewell* make use of any particular Words; and being then asked, how he then knew that the Prisoner was whispering the Affair to Captain *Hudson*, he said, he heard him speak about that Affair; he was sure it was about that, but he could not say that he could remember any particular Words;—that he did not see Captain *Gregory* after this; that at the Time Captain *Hudson* seemed to reprove Mr. *Timewell*, the Witness said, he did then understand the Words which he spoke, and that he related them to some People in the House; that he thought the Quarrel had been made between that Day and the Day Captain *Gregory* was killed. *(Being cross-examined by the Prisoner)* he said, that he was at a *Scotch Club* with Captain *Gregory* the *Wednesday* Night before the Accident happened, and that they were pretty merry; but could not say that any Body was in Liquor to excess; that he can't well remember whether Mr. *Stewart*, the Consul, and Mr. *Tourney*, the Merchant, were there,

tho' he believed they were, but was pretty sure, they dined there next Day. (*Here Mr. Timewell observed, That he asked the Witness those Questions, because he was sent with a Message from the Commodore about private Business to those Gentlemen, and therefore went to a House in order to meet them, and deliver his Message, as he had often done before, and not with a View of seeing Captain Gregory.*)

Then the Witness withdrew.

Captain *Hudson* Commander of the *Terror* Bomb was called in and sworn.

And being desired to declare what he knew of the Death of Captain Gregory, and the Charge against the Prisoner, he said,

THAT the first thing he heard when he went on board the *Folkstone*, was from Mr. *Timewell*, who told him, that Captain *Gregory* had shoved him off the Quarter-Deck, and he (*Timewell*) asked his Advice in what Manner he should behave in regard to it; that he told him he thought it would be his best way to desist, and not think any thing of it; he (*Timewell*) told him he was afraid it would hurt his Character, to which he (the Witness) said no; that in some few Days after, he went on board the Ship again, and that Mr. *Timewell* then told him, that the Commodore had obliged him and Captain *Gregory* to make it up, or to that Purpose, and, to comply with the Commodore, he had done with it; that some Days after, at *Middleburgh*, Mr. *Timewell* told him, that he had been at an House where Captain *Gregory* dined,

dined, and that he then had Business with Mr. *Stewart* the Consul, and Mr. *Tourney* a Merchant, and that he sent in Word that a Gentleman wanted to speak with them, not intending that Captain *Gregory* should hear that he was in the House; that in a short Time, Captain *Gregory* came out of the Room, and asked him if he had any Business with him; his Answer was, that he was surpris'd, that Captain *Gregory* should ask that Question, when he knew that he had given his Word to Commodore *Mitchell*; that Captain *Gregory* then told him, that he, Mr. *Timewell*, was in Liquor, but he would talk with him at another Time, upon which Mr. *Timewell* told him, that present Time was as good as any, or Words to that Purpose; that some Days afterwards Mr. *Timewell* came on board the *Terror Bomb*, and then told him, that Captain *Gregory* had called him a-side upon the Quarter-deck, and told him that he had been on Shore and was surpris'd he had not seen him; Mr. *Timewell's* Answer was, that he did not let him know it, and if he had a Mind that he should see him on Shore, he should let him know when he went a-Shore; that he (the Witness) said, he was glad that he did not know it, and hoped he would think no more of this rascally Affair, or something to that Purpose,—That Mr. *Timewell* afterwards told him, he had Leave from Commodore *Mitchell* to go on Shore, and desired that he would lend him a Boat to put him on Shore; that he came down into his Cabbin early next Morning about eight o'Clock, and told him Captain *Gregory* had met him, and that he was afraid that he had killed him, but that it must have been by mere Accident, for that he thought he hit him no where but on his Arm, and that he desired of him (the

Witness) to lend him a Boat ; a Boat was manned and Mr. *Timewell* went away : That he imagined Mr. *Timewell* was going on board the Commodore : That when he saw the Boat did not go near the Commodore's Ship, he put on his Cloaths as soon as possible, and went to the Commodore and told him that Mr. *Timewell* had been on board of him, and that he was afraid some Accident had happened ; upon which the Commodore enquired for Captain *Gregory*, and heard that he was gone out of the Ship ; the Commodore then immediately sent a Boat with a Lieutenant, the Surgeon of the *Folkstone*, and himself ; as they were rowing up *Middleburgh* Creek, a Man called out and said that the Captain was killed or stabbed by the Secretary ; the Surgeon and Mr. *Meldrum* went up and found the Captain dead :—That he knew of no Appointment being made by them, and that Mr. *Timewell* told him, that he would have nothing to say to Captain *Gregory*, unless he was obliged to it, as he had given his Word, and that nothing passed in Company between him and Mr. *Timewell* but what he had related, and that he was not in any private Discourse with him separate from any other Person, further than what he has said, and that in those Conversations Mr. *Timewell* did direct his Discourse to him. That in the Morning after the Accident happened, Mr. *Timewell* came on board him early, before he was up.

Here the Court observed to the Witness, that when Mr. Timewell came on board him, and told him he was afraid he had killed Captain Gregory, it was his Duty and he ought, in Justice, to have secured him and sur-

surrendered him to the Commodore, instead of lending him a Boat to further his Escape. The Witness then said, that at the Prisoner's telling him so, he was quite confused and flustered, and at that time could not think that Captain Gregory was killed, nor was he apprehensive of any such thing; and with Regard to the lending him a Boat, he did it in order to carry the Prisoner on board the Commodore, and not a-shore; and so soon as he found that Mr. Timewell did not direct his Course for the Commodore, he put on his Cloaths, and went himself on board of the Commodore as fast as he could, and told him what the Prisoner had related to him, which the Commodore immediately took Notice of, by enquiring for Captain Gregory, and upon his not finding him, by sending his first Lieutenant, Surgeon and him (the Witness) a-shore: therefore the Witness apprehended, which he submitted to the Court, that in the then immediate Confusion he was in, he could not have done more than he did; had he not been flustered and confused, and had any Notion or Apprehension that the Captain was dead, to be sure he would have stopt him.

That when Mr. Timewell told him of the usage he had received from Captain Gregory, and ask'd him how he should behave, he did not at the same time tell him, how he himself thought he ought to behave; That in the Morning the Accident happened, when Mr. Timewell came on board him about eight o'clock, and said Captain Gregory had met him, and that he was afraid he had killed

him, he did not think it was by Appointment, or that Mr. *Timewell* had way-laid Capt. *Gregory*, nor did he think any thing about it whether it was so or not, because he was confused. That Mr. *Timewell* had his Sword on when he came on board him, and left it on board; That Mr. *Timewell* did not appear with any marks of Violence about him. (*Being cross examined by the Prisoner*) he said, that the Sword which was left on board was a very bad one; That he heard that the Sword which kill'd Captain *Gregory* was broke about the Middle; That he thought he observed there were some scratches or pushes upon the Guard or Shell of Mr. *Timewell's* Sword; That he had been well acquainted with Captain *Gregory*, and had known him many Years, and believ'd he used his Right Hand; That the Time Mr. *Timewell* staid on board him that Morning, was very short, and believed not five Minutes, for which Reason he did not know, that he told him any other Circumstances in Relation to his killing Captain *Gregory* any further than as he before related, but thought he heard him say something about himself being wounded in the Thumb; That Mr. *Timewell* said that the Reason why he thought he had killed Captain *Gregory* was, because he was fainting when he left him.

Then he withdrew.

Mr.

Mr. Dudgeon, late Surgeon of the *Folkstone*,
was called in and Sworn,

*And being ordered to declare what he knew of the
Death of Captain Gregory, and the Charge
against the Prisoner, he said,*

THAT he knew nothing more of the Quarrel
between Captain Gregory and Mr. Timewell,
than what he heard from the Gentlemen in the Gun-
Room ; That he was no Witness to any dispute
that ever passed between them, nor ever heard ei-
ther of them mention a Word about any Quarrel ;
That he went on Shore with Mr. Meldrum, and
examined the Wound, but could not say that he
examined it narrowly ; That he only probed the
Wound, he was not at the Dissection of the Parts ;
That he imagined the Wound must have been very
dangerous, and in Regard to the Position of the
Wound, he did imagine that Captain Gregory must
have been in an erect Posture when he received it,
because the Wound was directly horizontal, it
went thro' this Part (*directing his Finger before
the upper part of his Left Shoulder*) and pass'd
thro' between the Collar Bone and the first Ribb ;
That in respect to the Possibility of such a Wound
being given, if Captain Gregory had been down,
he could not say directly how far such a Thing
might have been done, if a Man had laid down on
his Right Side ; That the Sword went directly
thro' the upper part of the Left Arm without
glancing, that if Captain Gregory had been in a
posture of Defence with his Left Hand, he might
have received the like Wound ; That a Man un-
doubtedly might receive such a Wound with his

Arm extended; That it went thro' his Shoulder and not thro' his Arm; That as a Surgeon, he imagined that Captain Gregory must have received the Wound with his Arm hanging down as he found it, and not extended, if he made his Defence with his Right Hand. (*Being cross examined by the Prisoner*) Whether such a Wound might be receiv'd by a Man in his falling and making a Semicircle, which brings his opposite side to his Enemy, by having over lunged himself, or his Foot slipping? he said, it might be so, but was a Stranger to the Thing; That there was no more than one wound;

Then he withdrew.

Mr. Masterman, Purser of the *Folkstone*, was call'd in and Sworn,

And being ordered to declare what he knew relating to this affair, he said,

THAT he knew but very little of the Affair; That he was in England when Captain Gregory was killed; That he remembered there was a signal for all Lieutenants, and that Capt. Gregory asked Mr. Timewell, whether there were any Orders for the Victuallers, that there were some Gentlemen on board; That Mr. Timewell said, he had not received any Directions from the Commodore to write any Orders, and that 'till he had received his Orders, it was not in his Power to write any or to deliver any; Upon which Captain Gregory said, Sir, you Answer me pertly; Mr. Timewell then told Captain Gregory, that he thought his

his Business did not at all interfere with his, and that if he would mind his Business, he would take care to mind his ; Those were the Words, or to that effect ; That he did not remember any particular Words besides those, only that Captain Gregory took Mr. *Timewell* by the Collar, and almost striking him, or rather shoving him, than giving him an hard Blow, he, cryed several times, Sirrah, get off the Quarter-Deck ; He then called some body to turn Mr. *Timewell* off the Quarter-Deck, and then Mr. *Timewell* went off himself ; There were some Words, very few, what they were he could not tell ; That Mr. *Timewell* afterwards told him several times, that he had given Commodore *Mitchell* his Word, that he would take no more Notice of it, neither did he intend it ; The Commodore about half an hour afterwards sent for him down, and asked him who he thought was in the Wrong, and what he thought of this Affair ; That he told him he thought, Captain Gregory had used Mr. *Timewell* extremely ill, and that after this, he imagined the Thing was all made up ; That they appeared to him to be as good Friends as ever ; That he did not think the Answer Mr. *Timewell* gave to Captain Gregory, was a sufficient Provocation for his treating him in the Manner he did, and that it was that, which made him tell the Commodore, he thought Mr. *Timewell* was used ill ; That he believed it was about ten Days after the Quarrel, when he went for *England* ; That when he return'd to *Holland*, which he did upon the Death of Captain Gregory, he received Letters from Mr. *Timewell*, wherein he told him, that he intended to go to *England* to take his Trial ; That he remembered one Expression particular, that he (Mr. *Timewell*) could not think of living under the Re-
proach

proach of being thought a Villain ; That this was about a Fortnight after his Return to *Holland* ; That after the Time of the Dispute between Captain *Gregory* and Mr. *Timewell*, he did not observe any Appearance of ill Blood between them, but thought there was as good an Harmony as before. (*Being cross examined by the Prisoner*) Whether Captain *Gregory* had not formerly kill'd a Man ? the Court would not admit of an Answer being given to that Question, but desired him to Answer with regard to Captain *Gregory's* general Character, he said, That he (the Witness) believ'd, that at one Time or another, there was scarce an Officer in the Ship, but Captain *Gregory* has used ill, and thought that he was rather hated than otherwise on board the Ship. That Mr. *Richards* in particular was always speaking against him :—That with regard to Mr. *Timewell's* Character, he was always a very good natured Man, and behaved exceedingly well : That he was of a very even Disposition ; That he never saw him Quarrellsome, and that he had known him about three Years.—Being further asked by Mr. *Timewell*, whether it was possible to see the Place, where Captain *Gregory* was found dead, from a Boat ? he said, that he had seen the Place where it was said, Captain *Gregory* lay, and he did not think it was possible to see it from a Boat.

Then he withdrew.

James

James Mager, Boatswain of the Folkstone, was called in and Sworn.

And being ordered to declare what he knew of this Affair, he said,

THAT he knew nothing of the Quarrel : That he never heard an angry Word between Captain Gregory and Mr. Timewell in his Life : That he heard his Captain was killed but he was on board the Ship when he was killed : That he knew nothing of the Circumstances, for he did not enquire into them, because, *he said*, after he was killed, it did not signify much.

Then he withdrew.

Thomas Raymond, Gunner of the Folkstone, was called in and Sworn,

And being ordered to declare what he knew of the Affair, he said,

THAT he was upon the Main-Deck, and heard Captain Gregory order Mr. Timewell off the Quarter-Deck : That he heard Captain Gregory say, "Mr. Timewell, go off the Quarter-Deck," and Mr. Timewell went off the Quarter-Deck : And that it was the day Month before Captain Gregory's Death : That it was on the 25th of December, and that Captain Gregory was killed on the 25th of January, and that he never heard any thing afterwards as to any Difference : That he was on board the

the Ship when Captain Gregory was killed, and that he knew nothing about his Death, but what he heard other People say, and that he did not now recollect what he did hear the People say, for that he did not think to be called to give any Account about it, neither did he recollect who they were that talked about it: That the general Opinion of the Ship was, that Captain Gregory was not killed fairly, from the Coroner's Inquest which pass'd upon the Affair in Holland:—*Being asked by Mr. Timewell*, Whether it was the general Opinion, that Captain Gregory received several Wounds? *he said*, No, only one Wound that he heard off.

Then he withdrew.

Mr. Morris, Carpenter of the *Folkstone*, called in and Sworn.

And being ordered to declare what he knew of this Affair, he said:

THAT he knew nothing at all of the Quarrel between Captain Gregory and Mr. Timewell: That he was sent for to make a Coffin, but he never heard one Word of any Quarrel between the Captain and Mr. Timewell.

Then he withdrew.

William

William Walker, Captain's Cook of the Folkstone, was called in and Sworn.

And being ordered to declare what he knew touching the Affair, he said:

THAT he heard a Dispute, and Captain Gregory desired Mr. *Timewell* to go down, but that he did not know what the Words were, any more than that Captain *Gregory* desired Mr. *Timewell* to go off the Quarter-Deck: That he went to speak to the Captain, and staid but a very few Minutes, and then he heard the Captain say that: That he was on board the Ship, and saw Captain *Gregory* after he was dead: That he knew of nothing that passed between Captain *Gregory* and Mr. *Timewell*, at *Middleburgh*.

Then he withdrew.

Andrew

*Andrew Bulcher, Quarter-Master on board the
Folkstone, was called in and Sworn.*

*And being ordered to declare what he knew of
this Affair, he said:*

THAT he was sent down, and came up again before Captain Gregory turned Mr. Timewell off the Quarter-Deck, and that he saw him turn him off the Quarter-Deck, but could not tell what Words was spoke: That he knew no more of it afterwards than what he heard from other People; that he heard Mr. Richard's say in Company, that Mr. Timewell had said, that he would either kill Captain Gregory, or he should kill him, but he could not say, who it was Mr. Richard's spoke it to; that it was after Captain Gregory was killed, that he heard Mr. Richard's say so: That as to the Time of the Day when he heard it, he thought it was before Dinner. (*Mr. Timewell here said, he hoped this Hearsay Evidence would not be admitted by the Court:*) That he recollects, the Master of the Ship was upon the Quarter-Deck, when he heard those Words from Mr. Richard's.

Then he withdrew.

William

William Coalke, Midshipman of the Falkstone, was called in and Sworn.

And being ordered to declare what he knew of the Affair, he said :

THAT he did not know of any Quarrel that happened : That he was on the Quarter-Deck the 25th of December, and heard Captain Gregory bid Mr. *Timewell* go off the Quarter-Deck several Times, and that he heard the Captain speak to Lieutenant *Lisle*, and desire him to see Mr. *Timewell* off the Quarter-Deck : That Mr. *Timewell* turned about, and was going to say something, and the Captain took hold of him ; and shoved him down some part of the Accommodation Ladder ; and this was all that he knew : That he did not hear any Words before or after : That as to talk among the People, he only heard some of the Boat's Crew say, that the Captain was killed.

Then he withdrew.

Jeffery

Jeffery Cooper, lately belonging to the *Folkstone*,
was called in and Sworn.

*And being order'd to declare what he knew about
this Affair, he said :*

THAT he knew nothing of the Quarrel :
That he came just on board, and saw Capt.
Gregory turn Mr. *Timewell* down off the Quarter-
Deck, but he knew nothing of the Words that
were spoke : That he heard afterwards from other
People, that there was a Difference between Mr.
Timewell and Captain *Gregory*.

Then he withdrew.

Frederick Wilkinson, Quarter-Master on board
the *Greyhound*, was called in and Sworn.

*And being ordered to declare what he knew re-
lating to this Affair, he said :*

THAT he was several Times on board the
Folkstone ; that the *Greyhound* on the 25th
Day of December lay at *Flushing*, in Company with
the Commodore : That as to Captain *Gregory*'s
Death, he knew the Time when he was found
dead ; and that he was the Person that took
Mr. *Timewell* at *Harwich* : That he took him upon
Account of his being advertised in the *Dutch* Coun-
try, and he knew him to be the Gentleman that
was advertised, and upon that Account he secured
him : That Mr. *Timewell* gave Half a Crown to a
young Man that was with him (the Witness) when
they landed, and ask'd him what Usage there was
in

in the Town, and that he said, there was good Usage at the *White Hart*, and that they went to the *White-Hart*: That Mr. *Timewell* when he gave the young Man Half a Crown, said, My Lad, say Nothing, and upon that he (the Witness) went for a Constable, and came back and took him up.

Then he withdrew.

William Hemsford, Midshipman of the *Folkstone*, was called in and Sworn.

And being ordered to declare what he knew of the Affair, he said:

THAT upon *Christmas* Day, he saw Capt. *Gregory* shove Mr. *Timewell* down, and bid him get off the Quarter-Deck: That he did not fall down headlong, but he shoved him along, and shoved him down the Ladder: That he was on board the Ship at the Time of Captain *Gregory's* Death, and had not been out of the Ship that Day: That he did not hear of any Dispute between Mr. *Timewell* and Capt. *Gregory* at any Time on Shore.

Then he withdrew.

E Commodore

Commodore *Mitchell*, Commander in Chief of a Squadron of his Majesty's Ships at *Flushing*, was called in and Sworn.

Who being desired by the Court to declare what he knew about the Death of Capt. Gregory, and the Circumstances attending the same, he upon his Oath declared:

THAT Captain *Gregory* came in to him the Morning on *Christmas* Day last in a Passion, and said, Your Secretary has used me ill, and I shall write for a Court-Martial; immediately he sat down, and wrote a Letter: That he went out again, and soon after came in, and desired that he (the Witness) would send for Mr. *Lisle* and Mr. *Masterman*, and ask them what they knew of it: That they both told him, that Captain *Gregory* had used Mr. *Timewell* very ill: That he sent to Mr. *Timewell*, and that Mr. *Timewell* said, that Captain *Gregory* had struck him, and used him very ill: That he ask'd Mr. *Lisle* what words he heard, who told him, that he heard very little of any Thing, but one of them said, he never saw a Gentleman treated so before. (*Here the Commodore pull'd out a Paper, containing a Memorandum of what he remember'd about the Affair, and it being objected that he ought not to make Use of it in giving his Evidence, he put it up.*)—That he told Captain *Gregory*, that he had heard he used *Timewell* very ill: That he had ask'd Mr. *Lisle* what Mr. *Timewell* had said to him, and that Mr. *Lisle* said, Mr.

Time-

Timewell told him (Captain Gregory) that he had no Orders about the Provisions: That Captain Gregory bid him go down to the Commodore, and see about the Orders, but *Timewell* said, he could not see how his Business could interfere, or his Business did not interfere with his (*Timewell's*) or to that Purpose; upon which, Captain Gregory took him by the Collar, and shov'd him off the Deck.—That Capt. Gregory said nothing to him but put up the Letter, and afterwards promised him, that he would say no more about it: That they both gave him their Words, that he should hear no more of it: That he remember'd, Captain Gregory turned about and said, *Timewell*, I forget and forgive every Thing: That Mr. *Timewell* said, he struck him, and Capt. Gregory denied it, and said, I only shov'd you: That he (the Commodore) said to Captain Gregory, You are very good, for if you had not done so, I would have turned *Timewell* out: That Mr. *Timewell* was a Man that he (the Commodore) had great Confidence in: That he could trust him: That he had sent him many Times on Shore upon Business to Mr. *Stewart* the Consul, and Mr. *Tourney* the Merchant: That he had been several Times on Shore with him, and that he could see no Difference between Capt. Gregory and him, and that they were frequently together: That on the *Saturday* Night before the Accident happened, they supp'd with him and were very merry together and good Company, and they also dined with him on *Sunday*: That Mr. *Timewell* used to ask him Leave to go on Shore generally twice a Week: That he was courting a young Woman there, and that he gave him Leave to go that *Sunday* Evening, and to re-

turn at Day-Light the next Morning, and that there was a Boat on Shore at Day-Light for him : That he ask'd for Captain *Gregory* on Monday Morning, and they told him he was gone a-shore : That he was surprized at it, and ask'd his (Capt. *Gregory's*) Servant the Meaning of it, who said, his Master was gone a-shore to buy China : That Capt. *Hudson* came on board of him that Morning : That he was very angry with Captain *Gregory* for going away without his Knowledge, he having done so once before, and he the Commodore had forbid him to do so for the future, and that if he had come on board afterwards, he should have scolded him very heartily : That he had given his Secretary no Directions to write out any Orders, nor did he give any Orders for making a Signal, having reserv'd *Christmas* Day a Leisure Day for the People, on which Day he did not intend that any of them should work : That he remember'd he heard Capt. *Gregory* say, he wanted to buy some China : That he enquired for Captain *Gregory* two Hours before Captain *Hudson* came on board of him : That when Captain *Hudson* came on board, he told him (the Witness) that he was afraid, some Mischief had happened on Shore, as Captain *Gregory* was not on board : That he immediately sent for a Jury to sit upon Captain *Gregory*, as soon as he heard he was killed : That Captain *Hudson* told him, that the Reason of his Apprehension of some Mischief between Capt. *Gregory* and Mr. *Timewell*, was, that Mr. *Timewell* seemed to be in great Confusion when he came on board of him and borrowed his Boat ; and he thought that he (Capt. *Hudson*) said, his Shirt was bloody : That he (the Witness

nels) was much surprized, and could not think that Mr. *Timewell* had done any Mischief; because they had both given him their Word: That he thought there might have been some Quarrel or Dispute about a Girl, because he had heard, that the old *Dutchman* had said, if Mr. *Timewell* came any more after his Daughter, he would shoot him: That Captain *Hudson* said, he thought he saw Mr. *Timewell's* Hand bound up, and thought he saw his Hand was bloody, but that he was not certain of that: That he never heard, that the Prisoner was ever on board the *Folkstone* after the Accident happened, but that he went away in a Bomb-Ketch: That he sent a Lieutenant and the Surgeon on Shore in order to find Captain *Gregory*, and as soon as he was informed that he was killed, he did his utmost by advertizing, and otherwise for the apprehending Mr. *Timewell*: That he ask'd Capt. *Hudson* how he came to let him have a Boat, and that Captain *Hudson* told him, he did not know, whether he was going upon his (the Commodore's) Business, or upon what Business, but that he did let him have a Boat; and he did think, that Captain *Hudson* said, he let him have the Boat to go on Shore to *Middleburgh*: That he saw Mr. *Timewell's* Sword: That he sent somebody to bring it: That he could not see the least Drop of Blood upon it: That there are several Marks upon it as if it had been hack'd. (*Being ask'd by the Prisoner, Whether Capt. Gregory was not present on Sunday, when he had Leave to go to Middleburgh, and heard the Time when he was to come back in the Morning? The Commodore said, Yes, he was present.*—That the Place was mentioned where the Boat was to come to wait

for Mr. *Timewell*, and that the Place was appointed in both their Hearings. (*Here Commodore Mitchell acquainted the Court, that both the Swords were on board, which the Court ordered to be brought in: Captain Gregory's appear'd to be broke in two, and Mr. Timewell's as well as the Captain's pretty much back'd*) That he thought the Boat was ordered to land at the *Ram-makees*, and that he likewise thought that both Parties were then present, but that when he gave Mr. *Timewell* Leave to go on Shore, he was positive, they then were both present. (*Being cross examined by the Prisoner*) he said, That the common Way from *Middleburgh* to the *Ram-makees* is down by the *Double-heads*: That Mr. *Timewell* went frequently on Shore on *Sundays*: That he frequently went on *Sunday* in the Afternoon: That he apprehended the Reason of it was to meet his Sweetheart: That he the Prisoner had left a considerable Sum of Money on board, for that upon his opening his Box in order to take out some Papers of his which were lock'd up, he found upwards of One hundred Pounds in Gold: That with regard to the Prisoner's Character, he declared, That the Prisoner was always a very sober young Man with him: That the whole Time he had the Honour of commanding that Fleet, he trusted him with the Secrets of publick Affairs.

Then he withdrew:

Here

Mr. GEORGE TIMEWELL. 41

Here all the Witnesses produced in support of the Charge against the Prisoner, having gone thro' their Examinations: The Court asked the Prisoner, if he had any thing to offer, or Witnesses to produce in his Defence; to which he answered he had: And having first observed to the Court, that he hoped to be able to prove, that Captain Gregory had the Morning the unhappy Accident happened, loitred for a considerable Time about the Shore where he the Prisoner must necessarily come, in order to go on board the Commodore, pursuant to his Orders, which must be absolutely intended for the purpose of meeting and fighting him the Prisoner. He then called.

*Benjamin Gregory, Cockswain of the Folks-
stone, who was Sworn,*

And being ordered to declare what he knew with regard to the Death of Captain Gregory, and the Circumstances attending the same, he said.

THAT on Monday Morning about half an Hour before Day-Light, a Man came down to him, and told him, that Captain Gregory wanted him: That when he went up, the Captain bid him not speak loud, but to go and get Six of his Barge's Crew to go in the Yawl with him to *Middleburgh*: That after

getting the People and Boat ready, he went and acquainted him of it, that he got two Baskets to bring some China down from *Middleburgh*: That the Captain ordered him to put off and steer towards Captain *Houghton*: That when he came by Captain *Houghton*'s Ship, Captain *Gregory* bid him row round her close under her Stern, and that after he had rowed round under her Stern, Captain *Gregory* bid him steer away to *Middleburgh*: That when he came to the Mouth of *Middleburgh* Creek or River, the Captain bid him to let the People lye upon their Oars a little while for fear the *Dutch* should fire at the Boat from the *Rammakee* Castle, and that there they lay about a Quarter of an Hour, and that then the Captain bid the People to give way again and pull into the River: That when they had rowed about half a Mile, the Captain asked him, where there was any good landing place between that and the *Double Heads*: That he told him there were two landing Places, and that the Captain told him, that when he came to the first, he should let him know it: That when he came to the first he shewed it to him, and and he (*the Captain*) asked, where the other was: That he told him about a quarter of a Mile further and shewed it to him, and that they rowed up to the second landing Place, and put Captain *Gregory* on Shore there: That he bid them not to row faster than he walked, and that when they had rowed about a quarter of a Mile, the Captain called to him, that if he saw Mr. *Timewell* at *Middleburgh*, that he should carry him off first if he was in an hurry to go off, and return for him the Captain afterwards: That when they had

had gone 100 or 150 Yards further, the Captain called to him to take his great Coat off: That they rowed up to the *Double Heads*: Captain Gregory called to him, that he had heard something of the two Bargemen that had left him (the Witness) nine Days before, and bid him go over to the little Town opposite the *Double Heads*: to enquire for them and return to him to the *Double Heads*: That he not finding the Men returned, and the Captain then asked him, if he had been all over the Town, to which he said, yes: That Captain Gregory then said, Come and take me into the Boat, and i'll try if I can't find them: That he took the Captain into the Boat, and carried him over to the other side of the River: That when they came over, the Captain sent him into an House to enquire for those Men again, but not finding Intelligence of them, he went into Boat again and put off: That when they had put the boat off, he said to Captain Gregory, Sir, there's Mr. *Timewell*: That Captain Gregory said, I see him: That they came over to the *Double Heads*, and put Captain Gregory on Shore: That the Captain bid him keep all the People in the Boat and to stay with them himself: That after Captain Gregory had walked up a little way by himself, he met Mr. *Timewell*, and that they walked very close a long side of one another, and that as he (the Witness) was walking after them, he (Captain Gregory) turned about, and bid him get into the Boat again, and keep the People together, and not to be out of the way: That then Captain Gregory and Mr. *Timewell* stepped upon the Bank, and went down the other Side of the Bank: That half an hour after that, he saw Mr. *Timewell* coming upon the Bank again: That Mr. *Timewell* walked

walked down towards the *Rammakee* Castle: That after he began to walk, he met with three or four *Dutchmen*, and talked a little to them but what he said to them he knew not: That he stood a little while, and then walked away very fast: That then he (the Witness) went down to the *Double Heads* and walked there about three quarters of an hour: That he bid the Men to go upon the Bank, and try, if they could see any thing of Captain *Gregory*, or the Men that carryed the Baskets, but that they could see nothing of them: That two of the Barge's Crew asked him to let them go up and meet them and lend them an hand in bringing the Baskets down: That he gave them leave and they ran as fast as they could; That when they had gone about half a Mile, they saw the Men that carryed the Baskets, and turned back with them, and ran down to him, and that then he ran and met them: That *Andrew Hammond* put his Hands together, and said Captain *Gregory*, our dear Captain is murdered: That then he and two of the Barge's Crew went into an House that was void an (empty House) at the *Double Heads*: That they opened the Doors and Windows as fast as they could, to try if they could see any Thing of it, for that they had a Suspicion it was done there: That while they were searching the House, one of the Barge's Crew shouted out, and they went all towards him, and that he (the Witness) sent away two of them in Pursuit of Mr. *Timewell*: That after he had sent them away, he took the Stock and Stock-Buckle off Captain *Gregory's* Neck, and took his Purse out of his Pocket, and then went in Pursuit

Pursuit of Mr. *Timewell* : That the two Men that he had sent away first were stopp'd by the first Lieutenant Mr. *Meldrum*, who made them turn back, and that as he (the Witness) was running, Mr. *Meldrum* stop'd him likewise, and made him turn back : That when he came back from the Corpse, he (Mr. *Meldrum*) ordered all the Boat's Crew to stay by the Captain, and then ordered him (the Witness) to walk to *Middleburgh* along with him : That he (the Witness) staid at Captain *Wilson's* Door about half an Hour, and that then Mr. *Meldrum* ordered him to go down to the Corpse, again, and that he staid by the Corpse again with the Boat's Crew, till they brought something down to carry him to an House upon, and that when they carried him to the House, he staid there till the Jury came down : That when they began to seek for the Wound, he went to go out, but they would not let him, but told him that he must stay, and tell them what he knew of it : That he told them, he saw nothing of it : That he asked the *English* Linguist what they made of it, and that the Linguist told him, they brought it in wilful Murder : That the Collar of Captain *Gregory's* Shirt was torn round from the fore Part to the Back of the Neck, the main Collar not the Gathers : That his Sword lay about five Yards from him broke in two Pieces : That his Wound was in the left Shoulder : That the Sword went in thro' the Tendons of the Heart, (meaning thro' all the Veins leading to the Heart) about an Inch from the Heart. (*Being examined by the Court*) *he said*, That when he sent a Man to try if he could

could see Captain Gregory, he was just by the Place where he had seen Captain Gregory and Mr. Timewell go over the Bank together : That *Andrew Hammond* told him, that he had met a *Dutchman*, who told him, that Captain Gregory was murdered, and put his Hand upon his left Breast. (*Being asked by the Prisoner, whether the Captain's Sword was put privately into the Boat ? he said,* That he had his Sword under his Coat : That he did not carry it in his usual manner, nor did he (the Witness) carry it into the Boat : That the Captain used sometimes to come into the Boat with his Sword by his Side, and sometimes used to give it to him to carry it into the Boat : That when he was in the Boat, he kept his Sword in a very private manner, because he (the Witness) did not see it all the while he was in the Boat ; but when the Captain was out of the Boat, he walked with his Stick in one Hand, and his Sword in the other : That when he came down the Ship's Side into the Boat, he did not come down so fast as he used to do: That he would not have any Lights tho' it was quite dark when he came down the Ship's Side into the Boat. (*Being examined by the Court,*) he said : That when Captain Gregory and Mr. Timewell met, he did not see them use the Compliment of pulling off their Hats to each other, but that they walked on together, seemingly as if they had been almost whispering : That before Mr. Timewell and Captain Gregory met, Mr. Timewell turned out of the Road, and walked about half Way between the Road and the *Double Heads* in order to meet Captain Gregory,

gory, and then they walked close along Side of each other, till they got up to the Bank: That he believ'd when the Body was found, it was about half a Quarter of a Mile from that Part of the Bank which he saw them go over. (*Being asked by the Prisoner, whether there was any other Road for him to go to carry him to the Landing-place where the Boat waited for him, than that into which he went when he met Captain Gregory, he said,* There was no other Road for him to go to the Landing-place but that into which he went when he met Captain Gregory, and that they must have met, there was no other Way, they could not well avoid meeting; there is indeed another Way that he might have gone, but that Way in wet Weather is a most remarkable dirty Place, a flushy Place, but at that Time it was not very dirty: That he believed the Men lay upon their Oars about an Hour and an half good, between the Time of their beginning to lay upon their Oars to the Time of their landing Captain Gregory, at the Time he met Mr. Timewell: That the Place where Captain Gregory was found, could not be seen by any Boats passing by: That he never was there so early in the Morning before, as to know whether any Boats were fired at from Rammakee-Castle in the Mornings, but that he knew they fired at Boats that passed in the Night: That the Edge of the Field where Captain Gregory was found, is close to the Dyke; That there is only a Ditch parts it from the Road: That Captain Gregory did not say a Word of Mr. Timewell till he (the Witness) said,

said, there is Mr. *Timewell*, and then the Captain said, I see him: That he spoke very short; he had in general a short Way of Speaking, but that he did not seem angry in the least when he said so, nor when he went out of the Boat and said, Send the Baskets; That he was not the first Man that saw the Captain, but that the Bowman of the Boat saw him first.

Then he withdrew.

Mr. *Chebfey* late of *Middleburgh*, but now of *London*, Chair and Cabinet-maker, was called in and sworn.

And being examined by the Prisoner said:

THAT Mr. *Timewell* lay at his House in the Beginning of *November*: That he lay at his House once or twice a Week, commonly on *Wednesdays* and *Sundays*, and used to return on Board the Ship on *Monday Mornings* and *Thursday Mornings*: That the Days were short, and Mr. *Timewell* used generally to get up early, about seven o'Clock, just about Day-light: That there was no Difference in his Behaviour on the *Sunday Evening* before Captain *Gregory's* Death, and that he gave no Orders to be called up sooner on that *Monday Morning*, nor any other Orders: That he never heard of any Difference between him and Captain *Gregory*, nor never heard him mention a Word of it till now in the Court: That he behaved at his House in a very orderly, quiet manner:

manner : That he never drank any thing more than ordinary all the Time : That the Distance from the Landing-place to the *Doubleheads* is about a Stone's throw : That the Place in one Part of it is very dirty at some Times : That Mr. *Timewell* always wore a Sword, he did not remember that he ever saw him without one.

Then he withdrew.

Then the Prisoner produced a Fencing-Master to shew, that such a Wound as Captain Gregory had received might have been fairly given to a Man in a Posture of Defence with his right Hand, which he declared upon his Oath might, from several Circumstances which he then offered, be fairly given.

Then he withdrew.

Mr. *Pindar Owen*, a Merchant, was called in and sworn.

And being examined by the Prisoner, said :

THAT he had heard Mr. *Timewell* often say, that he intended to come to *England* to take his Trial upon an Imputation of his having murdered Captain *Gregory*, and that he could not bear the Reflection of having done so base a Thing : That he would therefore surrender himself in order to take his Trial in the *English* Courts, where he did not doubt, but
he

he should have an Opportunity of clearing his Character: That about five Weeks ago, Mr. *Timewell* heard that he (the Witness) was coming to *England*, and that Mr. *Timewell* said, he would be glad of the Opportunity of coming over in the same *Pacquet* with him, or any other Way: That the Witness thoroughly understood it was with a View to surrender himself.

Then he withdrew.

Mr. *Abel Smith* was called in and sworn.

And being examined to the Character of Mr. Timewell, said:

THAT he had always observed, and always heard that Mr. *Timewell* behaved well, and was a very worthy Man, and that he never heard any disrespectful Thing said of him all the Time he was upon the Banks of *Flanders*.

Then he withdrew.

Mr. *Thompson Hicks* was called in and sworn.

And being examined to the Prisoner's Character, said:

THAT he had known Mr. *Timewell* six Years, that he was the next Clerk to him on Board the *Namure* under Admiral *Mathews*:

Mr. GEORGE TIMEWELL. 51

threws: That he had messed with him almost a Year: That he never knew him quarrelsome in any Respect, but that he was of a Disposition quite the contrary, and that he always behaved himself in every Thing like a Gentleman.

Then he withdrew.

Lieutenant *Brown* was called in and sworn.

And being also examined to the Character of the Prisoner, said,

THAT Mr. *Timewell* was a very sober Man on board the *Russel*; and always did his Duty; that he was a Midshipman on board the *Russel*: That he never remembered any Complaints against him to the Captain, and never knew him to be once in a Quarrel: That he (Mr. *Timewell*) was on board the *Russel* eight or nine Months, and the Witness had heard Captain *Long* take Notice of him often for his good Behaviour.

Then he withdrew.

F

Here

Here the Prisoner told the Court that he would take up no more of their time in examining Witnesses on his Behalf, but would submit the whole to their just Determination; however lest some Circumstances might slip the Memory of the Members of the Court, he prayed leave to read a Paper Writing which he then had in his Hand, which the Court granted; the Prisoner then read the said Paper Writing, containing some Inconsistencies which he apprehended appeared in the testimony of some of the Witnesses against him, with many Circumstances which he judged to be necessary for his Defence; in Substance as follows.

THAT he hoped the Court would be pleased to consider, that if any hearsay Evidence from the Witnesses against him might be admitted, the same Kind of Evidence, when given by his own Witnesses in his Favour, ought likewise to be admitted.

That in regard to the Conversation that passed between Captain *Middleton*, Mr. *Richards*, and himself, as they were walking up the Bank to *Middleburgh*, Captain *Middleton* absolutely contradicts Mr. *Richards*; that many Circumstances which Mr. *Richards* introduces as having passed in that Conversation. Captain *Middleton* knows nothing of: That the Evidence of Mr. *Richards* and Mr. *Pattison* was contradictory, and that he hoped

hoped, in an Affair of so much Consequence, the Court would pay no Regard to the Evidences against him that contradicted each other.

That the Manner in which Captain *Gregory* used to express himself had been observed in the Course of the Trial, which made it appear how bitter it was against him. That he hoped it would be evident, that Captain *Gregory* went on Shore, and that he (the Prisoner) was much surprised at it when they had given their Word to the Commodore to say no more of any Differences.

That they were on Shore together the *Saturday* before Captain *Gregory's* Death, and dined together on the *Sunday*; that he (the Prisoner) went on Shore with Leave of the Commodore on *Sunday* Evening with a light Sword, left all his Money on board, upwards of one hundred Pounds, that he went alone to the Landing-place, where, unknown to him, Captain *Gregory* had been waiting for him: That it appeared from the Nature of the Dyke that he (the Prisoner) might have turned out of View if he had any Appointment.

That if he had any Design, was it likely to think that he would have walked in so publick a Manner, when he might have gone privately out of View? that on his Side the meeting could be nothing but accidental; that on the Captain's Side he went out on purpose to watch him (the

Prisoner) and force him to fight him, that the Captain went out before Day-light, in the Morning, in very cold Weather, and without the Commodore's Knowledge, and against his Orders.

That he hoped the Particulars attending his hovering about the Landing-place above an Hour and half, and his concealing his Sword under his Great-coat, with every other Circumstance would be considered by the Court.

Having finished the reading of his Paper, he told the Court that he had nothing more to offer.

Then the Marshal was directed to take the Prisoner out of Court, and the Audience were ordered to withdraw,

About 7 o'Clock in the Evening the Court began to debate and consider the Nature of the foregoing Evidence, and they having agreed in their Opinions and drawn up and signed the Sentence in Form, about 11 o'Clock at Night the Door was opened; the Marshal was ordered to bring the Prisoner into Court, and the Audience were re-admitted.

THEN

THEN the Judge-Advocate, by Directions of the Court, read the Sentence, which acquitted the Prisoner of the Murder, but adjudged him for Misbehaviour, to be imprisoned in the *Marshalsea* Prison for two Years, and to be rendered incapable of ever having an Employ in his Majesty's Navy, and the Marshal was ordered to look to his Prisoner.

Ernst
11/11/20

F I N I S.

11. George Timewell

THE Hon. the Judge-Advocate, in Dis-
tinction of the Court, read the sentence
which required the Minister of the Mar-
ket, but assigned him for his behaviour, to be
imprisoned in the Fleet Prison for two
Years, and to be rendered incapable of ever
having any employ in his Majesty's Navy
and the Court was ordered to look to his
behaviour.

11. 11. 11